

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

American Employers' Insurance Company	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 04-0178
	:	
v.	:	
	:	
United Dominion Industries, et al.	:	
	:	
Defendants/Third Party	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
T.A. Rietdorf and Sons, Inc.,	:	
	:	
Third Party Defendant.	:	

JOINT STIPULATED MODIFICATION TO RULE 16 SCHEDULING ORDER

1. **Pre Discovery Disclosures.** The parties will exchange by September 30, 2004 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Discovery.**
 - (a) Discovery will be needed on the following subjects: liability of defendant(s), plaintiff's damages, facts and circumstances surrounding the design, sale, installation and maintenance of the defendant's product, facts and circumstances surrounding the fire.
 - (b) All discovery shall be commenced in time to be completed by May 31, 2005.
 - (c) Maximum of 25 interrogatories by each party to any other party.
 - (d) Maximum of 25 requests for admission by each party to any other party.
 - (e) Maximum of 8 depositions by plaintiff and 8 by defendant.

(f) Each deposition other than of experts

limited to a maximum of 5 hours unless extended by agreement of parties.

(g) Reports from retained experts under Rule 26(a)(2) on issues for which any party has the burden of proof due by plaintiff April 29, 2005 and defendants May 31, 2005. All Daubert motions due by **July 30, 2005**.

(h) Supplementation under Rule 26(e) due (time(s) or interval(s)).

(i) **Discovery Disputes.** Any discovery dispute shall be submitted to the court pursuant to Fed. R. Civ. P. 37. During the course of discovery, each party is limited to **two (2)** Rule 37 motions. The court shall make itself available, however, to resolve through a telephone conference, disputes that arise during the course of a deposition and disputes related to entry of a protective order.

3. **Joinder of other Parties, Amendment of Pleadings, and Class**

Certification. All motions to join other parties, amend the pleadings, and certify a class action shall be filed on or before September 30, 2004.

4. **Settlement Conference.** Pursuant to 28 U.S.C. 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement.

5. **Summary Judgment Motions.** All summary judgment motions shall be served and filed with an opening brief on or before **July 30, 2005**. Briefing shall be pursuant to D. Del. LR 7.1.2. No summary judgment motion may be filed more than ten (10) days from the above date without leave of the court.

6. **Applications by Motion.** Any application to the court shall be by written motion filed with the clerk. Unless otherwise requested by the court, counsel shall not deliver copies of papers or correspondence to chambers. **Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1.**

7. **Motions in Limine.** All motions in limine shall be filed **two weeks before pretrial conference.** All responses to said motions shall be filed **one week before pretrial conference.**

8. **Pretrial Conference.** A pretrial conference will be held on September 22, 2005 at 4:30 p.m. in Courtroom No. 6B, Sixth Floor Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

9. **Trial.** This matter is scheduled for a one week jury trial commencing on October 3, 2005 in Courtroom No. 6B, Sixth Floor Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial preparations, the parties should plan on being allocated a total number of hours in which to present their respective cases.

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